

**MINUTES OF THE
SENATE JUDICIARY, LAW ENFORCEMENT, AND CRIMINAL JUSTICE
STANDING COMMITTEE**

Wednesday, February 1, 2017 • 2:00 p.m. • 250 State Capitol

Members Present:

Sen. Todd Weiler, Chair
Sen. Gene Davis
Sen. Luz Escamilla
Sen. Lyle W. Hillyard
Sen. Daniel W. Thatcher

Members Absent:

President Wayne L. Niederhauser
Sen. Ralph Okerlund

Staff Present:

Mr. Gregg A. Girvan, Policy Analyst
Ms. Nancy Skidmore, Committee Secretary

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at le.utah.gov.

Chair Weiler called the meeting to order at 2:05 p.m.

MOTION: Sen. Hillyard moved to approve the minutes of the January 30, 2017 meeting. The motion passed 4-0-3.

Yeas:

Sen. Davis
Sen. Escamilla
Sen. Hillyard
Sen. Weiler

Nays:

Abs:

Pres. Niederhauser
Sen. Okerlund
Sen. Thatcher

1. S.B. 121 Adoption Act Amendments (*Hillyard, L.*)

MOTION: Sen. Davis moved to amend S.B. 121 with Amendment #2 as follows:

217 1. Page 8, Lines 216 through 218: 216 Section 78B-6-131.
 (6) (a) { ~~A [person] profession~~ An individual described in Subsection
218 (2)(c) shall be licensed to
 practice under the laws of:

The motion passed with a vote of 4-0-3.

Yeas:

Nays:

Abs:

Sen. Davis
Sen. Escamilla
Sen. Hillyard
Sen. Weiler

Pres. Niederhauser
Sen. Okerlund
Sen. Thatcher

Sen. Hillyard explained the bill.

MOTION: Sen. Hillyard moved to pass S.B. 121 out favorably. The motion passed with a vote of 4-0-3.

Yeas:

Sen. Davis
Sen. Escamilla
Sen. Hillyard
Sen. Weiler

Nays:

Abs:

Pres. Niederhauser
Sen. Okerlund
Sen. Thatcher

MOTION: Sen. Hillyard moved to place S.B. 121 on the Consent Calendar. The motion passed with a vote of 4-0-3.

Yeas:

Sen. Davis
Sen. Escamilla
Sen. Hillyard
Sen. Weiler

Nays:

Abs:

Pres. Niederhauser
Sen. Okerlund
Sen. Thatcher

2. S.B. 89 Adoption Agency Amendments (*Escamilla (Robles), L.*)

MOTION: Sen. Davis moved to replace S.B. 89 with 1st Substitute S.B. 89. The motion passed with a vote of 4-0-3.

Yeas:

Sen. Davis
Sen. Escamilla
Sen. Hillyard
Sen. Weiler

Nays:

Abs:

Pres. Niederhauser
Sen. Okerlund
Sen. Thatcher

Sen. Escamilla presented the bill with the assistance of Mr. Ray Johnson, adoptive father.

MOTION: Sen. Davis moved to amend 1st Substitute S.B. 89 with Amendment #1 as follows:

1. *Page 21, Line 633:*

633 (vi) gross negligence associated with care of the child, as described in
Subsection 78B-6-134(3);

The motion passed with a vote of 3-0-4.

Yeas:

Sen. Davis
Sen. Escamilla
Sen. Weiler

Nays:

Abs:

Sen. Hillyard
Pres. Niederhauser
Sen. Okerlund
Sen. Thatcher

MOTION: Sen. Davis moved to pass 1st Substitute S.B. 89 out favorably. The motion passed with a vote of 3-0-4.

Yeas:

Sen. Davis
Sen. Escamilla
Sen. Weiler

Nays:

Abs:

Sen. Hillyard
Pres. Niederhauser
Sen. Okerlund
Sen. Thatcher

Sen. Thatcher assumed the chair.

3. S.B. 134 Indigent Defense Commission Amendments (*Weiler, T.*)

MOTION: Sen. Weiler moved to amend S.B. 134 with Amendment #1 as follows:

1. *Page 4, Lines 91 through 92:*

91 (5) A person who is currently employed solely as a criminal prosecuting
attorney may not

92 serve as a member of the commission .

2. Page 5, Lines 131 through 136:

131 (a) one individual who is an active member of the Utah State Bar to serve as a
full-time
132 assistant director; **and**
133 (b) one individual with data collection and analysis skills to carry out duties as
outlined
134 in Subsection 77-32-804(1)(a) { ~~and~~ .
135 { ~~(c) any additional professional and clerical staff necessary to enable the~~
commission to
136 carry out its responsibilities. }

3. Page 6, Lines 157 through 1: 61

157 [(v)] (v) Counsel shall be free to provide meaningful { ~~, adversarial testing of the~~
158 ~~evidence~~ } representation, including:
159 (A) adequate access to defense resources; and
160 (B) workloads that allow for time to meet with clients, investigate cases, and file
161 appropriate motions.

4. Page 11, Lines 334 through 336:

334 (2) (a) For purposes of this part, "baseline budget" means an indigent [criminal]
335 defense system's { ~~share of local funding, adjusted annually for growth in~~
~~population and~~
336 ~~inflation.~~ } annual expenditure for indigent defense services. The baseline
budget shall be adjusted for indigent defense case load fluctuations and inflation
whenever subsequent grant requests are submitted to the commission.

The motion passed with a vote of 3-0-4.

Yeas:

Sen. Escamilla
Sen. Thatcher
Sen. Weiler

Nays:

Abs:

Sen. Davis
Sen. Hillyard
Pres. Niederhauser
Sen. Okerlund

Sen. Todd Weiler presented the bill with the assistance of Joanna Landau, Director, Indigent Defense Commission.

Mr. Jared Eldridge, Juab County Attorney, spoke in favor of the bill.

Mr. Rick Schwermer, Assistant Administrator, Utah State Office of the Courts, spoke in favor of the bill.

MOTION: Chair Weiler moved to pass S.B. 134 out favorably. The motion passed with a vote of 4-0-3.

Yeas:

Sen. Escamilla
Sen. Hillyard
Sen. Thatcher
Sen. Weiler

Nays:

Abs:

Sen. Davis
Pres. Niederhauser
Sen. Okerlund

4. S.J.R. 7 Joint Resolution Amending Rules of Criminal Procedure (*Weiler, T.*)

Sen. Todd Weiler explained the bill.

MOTION: Chair Weiler moved to replace S.J.R. 7 with 1st Substitute S.J.R. 7. The motion passed with a vote of 4-0-3.

Yeas:

Sen. Escamilla
Sen. Hillyard
Sen. Thatcher
Sen. Weiler

Nays:

Abs:

Sen. Davis
Pres. Niederhauser
Sen. Okerlund

Mr. Steve Burton, Committee Chair, Utah Association of Criminal Defense Attorneys, spoke in favor of the bill.

Mr. Sean Hollinger, Criminal Defense Attorney, spoke in favor of the bill.

Mr. Paul Boyden, Executive Director, Statewide Association of Prosecutors, spoke in opposition to the bill.

Sen. Todd Weiler presented the bill with the assistance of Mr. Brian Redd, Director, Bureau of Investigation, Department of Public Safety.

MOTION: Sen. Hillyard moved to pass S.B. 118 out favorably. The motion passed with a vote of 4-0-3.

Yeas:

Sen. Escamilla
Sen. Hillyard
Sen. Thatcher
Sen. Weiler

Nays:

Abs:

Sen. Davis
Pres. Niederhauser
Sen. Okerlund

MOTION: Sen. Hillyard moved to adjourn. The motion passed with a vote of 4-0-3.

Yeas:

Sen. Escamilla
Sen. Hillyard
Sen. Thatcher
Sen. Weiler

Nays:

Abs:

Sen. Davis
Pres. Niederhauser
Sen. Okerlund

Chair Weiler adjourned the meeting at 3:49 p.m.

Sen. Todd Weiler, Chair